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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,234	10/19/2001	Wolfgang Pichler	010475	6734

7590 10/04/2002

Law Offices of Karl Hormann
86 Sparks Street
Cambridge, MA 02138-2216

EXAMINER

HENCE, ANDREA A

ART UNIT	PAPER NUMBER
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2854

8

DATE MAILED: 10/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/937,234

Applicant(s)

PICHLER, WOLFGANG

Examiner

Andrea A. Hence

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 5-7;9-11 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/19/02 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 6 is objected to because of the following informalities:

- Please change the word "in" to "is."

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 11, applicant claims "the receptacle is initially provided in a transport case having a removable cap facing the impression member." It is unclear which structure, the transport case or the receptacle, applicant claims to have a removable cap facing the impression member.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 5,6,9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps, Sr. et al (4,676,162) in view of Capezzuto et al (4,392,425). Referring to claims 5 and 6, Phipps teaches a hand stamp comprising a handle (10); a housing (12); a stamp platen (28); a stem (30); and snap-fit connection means (Column 4, lines 16-18) for releasably connecting the receptacle (26) to the platen. Phipps does not teach the use of flexible foldable bellows extending between the handle and housing. Also, Phipps does not teach the flexible bellows formed integrally with the handle. Capezzuto teaches an ink stamp that further includes flexible foldable bellows (55),(57) extending between the handle (15) and housing (20). Referring to claim 6, Capezzuto further discloses the flexible bellows formed integrally within the handle (See Figures 4 and 5).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Phipps by adding flexible foldable bellows for the purpose of permitting the stamp matrix to extend to a limited extension to protect it from cracks, compression damage or prolonged use as taught by Capezzuto.

Referring to claim 9, Phipps further discloses the receptacle (26) that is initially releasably retained in the positioning frame opening and adapted to be engaged by the stamp platen upon movement towards the stamping position (See Figure 6).

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Referring to claim 11, Phipps further discloses the receptacle (26) covered by a removable cap (20) facing the impression member (18) (See Figure 6).

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps in view of Cappezutto as applied to claims 5,6,9 and 11 above, and further in view of Wilson (5,111,745). Phipps and Cappezutto together teach all that is claimed, as discussed in the above rejection of claims 5,6,9 and 11 above, except Phipps and Cappezutto do not disclose a hand stamp wherein the handle is provided with a removable cap. Wilson discloses a hand stamp (10) wherein the handle (14) is provided with a removable cap (62). The stem (48) in Wilson is attached to the handle (60) thereof by means of extensions (54) extending into an aperture (58). The stem (48) is therefore accessible beneath the cap.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Phipps and Cappezutto by replacing the stem attaching means of Phipps with the stem attaching means of Wilson, since the attaching means of Wilson provides for quick attachment and release of the stem. This modification would be result in the stem being accessible beneath the removable cap.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps in view of Capezzuto as applied to claims 5,6,9 and 11 above, and further in view of Winston (5,505,130). Phipps and Cappezutto together teach all that is claimed, as discussed in the above rejection of claims 5,6,9 and 11 above, except Phipps and Cappezutto do not disclose a receptacle with at least one separator for dividing the impression member. Winston discloses a receptacle (22) provided with at least one separator (30) (See Figures 1-3).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Phipps and Capezzuto by adding a separator such that the user may manually remove and reattach the pad/plate assemblies to the base in any number of configurations allowing the user to have flexibility in constructing multi-color inking surfaces as taught by Winston.

Allowable Subject Matter

8. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These include:

- Poplawski et al (6,058,840) – discloses a mounting for a manual stamp
- Inaguma et al (4,939,990) – discloses a rotary stamping apparatus
- Nettesheim et al (4,594,943) – discloses an ink stamp with a threaded adjustment
- Beckman et al (5,115,729) – discloses an ink stamp with an adjustable die depth
- Phipps, Sr. et al (4,676,162) – discloses a stamp with a skirted housing in which a plunger is slideable and spring biased to an upward position

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- Winston (5,505,130) – discloses a multi-color ink pad assembly with end user configurable pad/plate assemblies

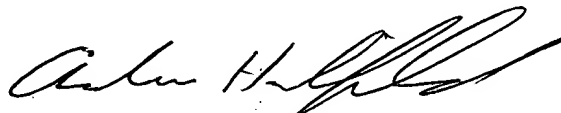
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea A. Hence whose telephone number is (703) 305-8427. The examiner can normally be reached on Monday- Friday; 8:30a-5:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (703) 305-6619. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Andrea A. Hence

AAH
October 1, 2002



ANDREW H. HIRSHFELD
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